

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Appl No.: 10/743,178
Applicant: Li-Ming Cheng et al.
Filing Date: 12/23/2003
Art Unit: 3634
Examiner: Johnson, Blair
Attorney Docket No.: 21406-001

DECLARATION UNDER 37 CFR 1.132

I, Theodor Crouse Swart, declare the following:

1. That I am the Marketing Manager for King Koon Industrial Corporation of Taiwan; King Koon is the parent company of Zipshade Industrial (B.V.I.), which is the assignee of the above-identified application. King Koon's company address is No. 56, 2nd Lane, Yung Lo St., KangShung (820), Kaohsiung Hsien, Taiwan, R.O.C. Our telephone number is 886-7-622-9661.
2. That I am employed by King Koon Industrial Corporation in the capacity of marketing window shades. I have been employed in this company since November 3rd, 2003. In the course of my employment I have become familiar with marketing activities of King Koon Industrial Corporation.
3. That in 2004, our market share in the window covering industry was dwindling as the vinyl roller shades became out of fashion.
4. That prior to 2004, our marketing efforts to expand our products to other large retailers were unsuccessful due to lack of innovation in our products. Prior to 2004 (and since 1975), King Koon was engaged in original equipment manufacturing (OEM), manufacturing shades and blinds according to specifications given by our clients.
5. With the introduction of our own cordless pleated shade (as claimed in U.S. Pat. Application No. 10/743,178), we were able to get access to JCPenney® (one of North America's largest retailer) through a fellow window shade manufacturer Whole Space.

6. That to my knowledge, previously JCPenney® had been unsuccessful in finding a suitable cordless shade product for their catalogues.
7. In 2004, Whole Space acted as our sole agent for JCPenney® and Lowe's® in North America for our cordless shade; at the same time Whole Space continued to make and sell their other window shade products in North America.
8. That in JCPenney®'s company history, the first ever cordless shade carried in the JCPenney® catalogue was our cordless shade (January, 2004 JCPenney® catalogue).
9. Our cordless shade was well-received by the market as evidenced by purchase orders from major retailer such as JCPenney®.
10. Comparing to pre-2004, King Koon has received increased invitations from large U.S. retailers (e.g., Target Corporation®, Home Depot®, Lowe's®) to participate in new shade programs. Invitations increased despite the fact we attended less trade shows and fairs in the U.S. since 2004.
11. The success of our cordless shade also spawn several competitors (i.e., Whole Space Industries and Ching Feng Home Fashions Company) to imitate our innovation. Whole Space, in particular, used to be our exclusive agent, and they cut us off from our end buyer JCPenney® by supplying JCPenney® their copied version (JCPenney® item ID number R282-27744-011) of our cordless shades. Ching Feng's copied version includes the JCPenney® Home Collection™ item ID number 736-6757-0018.
12. During the past two years the product's commercial success continues. We continue to sell our cordless shades to additional U.S. retailer including Bed Bath & Beyond®, Walmart®, etc.
13. That the sales volume of cordless shades increased 12% in 2004, when comparing with previous year's number.
14. That the sales volume of cordless shades increased 32% in 2005, when comparing with previous year's number.

15. That the sales volume of cordless shades increased 43% in 2006, when comparing with previous year's number.

16. The sales volume increased from 2004 through 2006 despite that fact we spent approximately the same amount of money in marketing when comparing with previous years.

17. Through the commercial success of our cordless shade, King Koon became a well-known player in the U.S. market as a cordless solution provider of high quality shades.

18. Through this cordless shade, King Koon has successfully transitioned from engaging in original equipment manufacturing (OEM), to original design manufacturing (ODM) and original branding manufacturing (OBM). King Koon has since been recognized for its R&D capabilities. Also, shades manufactured by King Koon now bear its own brand.

19. I believe the innovation in the above-referenced invention successfully helped King Koon enter into high-quality window shade market that was not available to OEM companies. Had it not been for the innovative nature and predicted commercial success of our cordless shade, companies like JCPenney® would not have wanted to establish business relationship with us.

20. I hereby declare that all statements made herein are true, and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Theodor Crous Swart, Marketing Manager

Date: 3 April 2007